

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
LAFAYETTE DIVISION

EDUCATE 360, LLC,)	
)	
Plaintiff,)	Case No. 4:17-cv-78
)	
vs.)	
)	
PATCHREE PATCHRINT a/k/a PATTY)	
JONES AND ANTHONY CHRISTOPHER)	
JONES,)	
)	
Defendants.)	
)	

COMPLAINT

Comes now Plaintiff, Educate 360, LLC, by counsel, and files this Complaint against the Defendants, Patchree Patchrint a/k/a Patty Jones and Anthony Christopher Jones (collectively “Defendants”), and alleges and says:

1. This is a civil action for trademark infringement, false designation of origin, and cybersquatting arising under the trademark laws of the United States, 15 U.S.C. § 1051-1127, and for corresponding common law claims and remedies.

2. Plaintiff does business as “Project Management Academy” and is a highly reputable market leader in the field of project management training. Defendants promote their business as “Project Management Academy” at www.pmacademyusa.com. Defendants are passing themselves off under Plaintiff’s brand and misleading consumers who are seeking training in the field of project management.

3. Plaintiff, Educate 360, LLC formerly known as eCity Market Inc. (“Educate

360”) is a Delaware limited liability company with its principal place of business in West Lafayette, Indiana.

4. Defendants are individuals residing in California.

5. This Court has jurisdiction over these claims pursuant to 28 U.S.C. §§ 1331, 1332(a), and 1338(a) and (b).

6. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(2).

Defendants operate their project management training seminars throughout the United States including Indiana.

General Allegations

7. Educate 360 offers courses and training in the fields of project management and product management as well as educational services in the fields of project management and product management.

8. Educate 360 has operated under the tradename “Project Management Academy” since 2009 and also under the tradename “PMA” since 2012.

9. Educate 360 owns and enjoys common law rights in and throughout the United States in “Project Management Academy” (the “Project Management Academy Mark”) and “PMA” (the “PMA Mark”). The Project Management Academy Mark and the PMA Mark are referred to hereinafter as the “Marks”. The Marks are in use in commerce throughout the United States to identify Educate 360 as well as services sold by Educate 360 in interstate commerce. By virtue of Educate 360’s use and promotion of the Marks, persons seeking project management training associate the Marks with Educate 360 and its services. As a result, the Marks are strong and distinctive.

10. Educate 360 has federal trademark registrations for the Marks, namely, for a design mark containing the words “Project Management Academy®” (Registration No. 4844286), for the word mark “Project Management Academy®” (Registration No. 3858578), and for the word mark “PMA®” (Registration No. 5159121) (collectively, the “Registered Marks”) in International Class 41 for certain services including training, mentoring, and tutoring services in the fields of project management and product management; educational services, namely, conducting classes, seminars, and workshops in the fields of project management and product management.

11. The Marks (including the Registered Marks) have acquired goodwill and distinctiveness such that persons seeking project management training have come to associate the Marks with Educate 360 products.

12. Educate 360 owns and operates websites on the Internet more commonly known as www.projectmanagementacademy.net and www.projectmanagementacademy.com. Educate 360’s websites prominently feature the Registered Marks as well as information about Educate 360’s services.

13. Defendants advertise their project management training seminars across the United States under the business names “Project Management Academy USA” and “Project Management Academy”. *See* **“Exhibit A”**.

14. On information and belief, Defendants registered the domain name of www.pmacademyusa.org in the name of Perfect Privacy LLC as owner. On www.pmacademyusa.org, Defendants prominently displayed the terms “Project Management Academy USA” and “PMA”.

15. On information and belief, Defendants have now registered the domain name of www.pmacademyusa.com (“Defendants’ Website”), which is substantially similar to Defendants’ prior website of www.pmacademyusa.org. The website www.pmacademyusa.org redirects to Defendants’ Website.

16. “**Exhibit A**” includes printouts of Internet web pages of Defendants’ Website, showing the use by Defendants of the terms “Project Management Academy”, “Project Management Academy USA”, and “PMA” (collectively, the “Infringing Uses”). The Infringing Uses have been prominently displayed on Defendants’ Website and variously in Defendants’ invoicing and other business documentation.

17. The Infringing Uses cause confusion with Educate 360’s educational services because the terms are identical to the Marks in sound, appearance and meaning. Defendants’ deployment of the Infringing Uses is highly misleading, and persons who have contracted for courses offered through the website www.pmacademyusa.com have been deceived.

18. Upon information and belief, Defendants employ the Infringing Uses with specific intent to associate Defendants’ business with the Educate 360’s goodwill in the Marks.

19. Educate 360 has made demands on the Defendants to cease and desist from the Infringing Uses. The Defendants have failed to do so.

20. Michael Steele (“Steele”) is an individual domiciled in the State of Indiana.

21. On September 19, 2017, Steele accessed Defendants’ Website from within the State of Indiana. Through Defendants’ Website, Steele enrolled in a course entitled “Project Management Academy Project Management Certification Course.” A copy of the invoice for Steele’s enrollment is attached hereto as “**Exhibit B**”.

22. Following Steele's enrollment for said Project Management Certification Course, Defendants, operating under the business name "Project Management Academy", sent an E-Mail to Steele dated September 19, 2017, which confirmed Steele's enrollment. A copy of this E-Mail is attached hereto as "**Exhibit C**".

23. This E-Mail also contained certain course materials which are attached hereto as "**Exhibit D**".

24. Steele subsequently received an invoice for his enrollment in this Project Management Certification Course from "Project Management Academy". A copy of this invoice is attached hereto as "**Exhibit E**".

Count I – Declaratory Relief

25. Educate 360 hereby incorporates the above paragraphs by reference.

26. This is an action for declaratory judgment pursuant to 28 U.S.C. § 2201 and Fed. R. Civ. P. 57.

27. Through their conduct, Defendants claim the right to use the term "Project Management Academy" in connection with project management professional training services. Educate 360 vigorously disputes this contention. There thus exists an actual controversy between Educate 360 and Defendants, within the jurisdiction of this Court, involving the rights, duties and obligations of the parties, which controversy may be determined by a judgment of this Court, without other suits.

28. Educate 360 requests that the Court issue declaratory relief in favor of Educate 360 and against the Defendants as follows:

- a. Educate 360 owns and enjoys rights in Indiana and throughout the United States in and to the term “Project Management Academy” for project management professional training services.
- b. Educate 360’s rights are superior to any rights which Defendants may claim in and to the use of the term “Project Management Academy”.

Count II – Declaratory Relief

29. Educate 360 hereby incorporates the above paragraphs by reference.
30. This is an action that includes a request for declaratory judgment, pursuant to 28 U.S.C. § 2201 and Fed. R. Civ. P. 57.

31. Through their conduct, Defendants claim the right to use the term “PMA” in connection with project management professional training services. Educate 360 vigorously disputes this contention. There thus exists an actual controversy between Educate 360 and Defendants, within the jurisdiction of this Court, involving the rights, duties and obligations of the parties, which controversy may be determined by a judgment of this Court, without other suits.

32. Educate 360 requests that the Court issue declaratory relief in favor of Educate 360 and against the Defendants as follows:

- a. Educate 360 owns and enjoys rights in Indiana and throughout the United States in and to the term “PMA” for project management professional training services.
- b. Educate 360’s rights are superior to any rights which Defendants may claim in and to the use of the term “PMA”.

Count III – Lanham Act – Trademark Infringement (15 U.S.C. § 1114)

33. Educate 360 hereby incorporates the above paragraphs by reference.

34. Defendants' Infringing Uses have infringed the Registered Marks in interstate commerce.

35. Upon information and belief, Defendants' Infringing Uses have been willful and deliberate, designed specifically to trade upon the valuable goodwill associated with the Registered Marks.

36. Educate 360's goodwill in the Registered Marks is extremely valuable, and Educate 360 will suffer irreparable harm should infringement be allowed to continue to the detriment of its trade reputation and goodwill. Defendants' Infringing Uses will continue unless enjoined by this Court. If not enjoined, Defendants' Infringing Uses are likely to cause confusion as to the source of Defendants' goods and services, and detriment to Educate 360's trade reputation and goodwill, and the public will likely associate the goods and services with, and as originating with, Educate 360, all to the detriment of Educate 360.

37. Educate 360 has given notice that the Registered Marks are registered in the U.S. Patent and Trademark Office by displaying them with a symbol consisting of the letter "R" enclosed within a circle. The Defendants have actual notice to cease and desist from their acts of trademark infringement and have actual notice of Educate 360's trademark registration.

Count IV – Lanham Act – False Designation of Origin (15 U.S.C. 1125(a))

38. Educate 360 hereby incorporates the above paragraphs by reference.

39. Defendants have used false or misleading descriptions of fact, or false or misleading representations of fact, in interstate commerce regarding use of the Marks, namely the terms "Project Management Academy" and "PMA", which is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association with Educate 360.

40. Educate 360 is likely to be damaged by Defendants' acts given that Educate 360 has no control over the nature, quality, or content of Defendants' Website. Any failure or defect attributable to Defendants will reflect adversely on Educate 360 as the believed source of origin, hampering Educate 360's efforts to continue to protect its outstanding reputation for high quality educational services.

Count V – Lanham Act – Cybersquatting

41. Educate 360 hereby incorporates the above paragraphs by reference.

42. Defendants' domain names which contain the terms "pmacademyusa.org" and "pmacademyusa.com" are confusingly similar to the Registered Marks.

43. On information and believe, Defendants have used, registered or trafficked in the domain names "pmacademyusa.org" and "pmacademyusa.com" with a bad faith intent to profit off of Educate 360's Registered Marks.

Count VI – Common Law Trademark Infringement

44. Educate 360 hereby incorporates the above paragraphs by reference.

45. Defendants' Infringing Uses have infringed Educate 360's common law trademark rights in the Marks.

46. Defendants' Infringing Uses are without permission or authority and are likely to cause confusion, to cause mistake, and to deceive as to the affiliation, connection, or association of Defendants' services with Educate 360.

47. Defendants' above-alleged acts have been committed with the intent to cause confusion and to deceive consumers.

48. Defendants are trading on the valuable goodwill associated with Educate 360's usage of the Marks.

49. Educate 360's goodwill in the Marks is extremely valuable, and Educate 360 will suffer irreparable harm should infringement be allowed to continue to the detriment of its trade reputation and goodwill. Defendants' Infringing Uses will continue unless enjoined by this Court. If not enjoined, Defendants' Infringing Uses are likely to cause confusion as to the source of Defendants' goods and services, and detriment to Educate 360's trade reputation and goodwill, and the public will likely associate the goods and services with, and as originating with, Educate 360, all to the detriment of Educate 360.

Count VII – Common Law Passing Off/Unfair Competition

50. Educate 360 hereby incorporates the above paragraphs by reference.

51. Defendants have intentionally misrepresented that their products and services are sponsored by, affiliated with, approved by, and/or otherwise connected with Educate 360.

52. Defendants' acts have been and presently are committed with the intent to pass off their services as the services of Educate 360, and with the intent to deceive and defraud the public.

53. The conduct of Defendants has had and presently has the natural and probable tendency to deceive so as to pass off Defendants' services as and for those of Educate 360.

54. Public deception is the natural and probable consequence of Defendants' actions.

WHEREFORE, Plaintiff, Educate 360, prays for entry of a judgment in favor of Educate 360 and against Defendants:

(1) Declaring that:

- a. Educate 360 owns and enjoys common law rights in and throughout the United States in and to the terms "Project Management Academy" and "PMA".

- b. Educate 360's rights in the Marks are superior to any rights which Defendant may claim in and to the use of the Marks.
- (2) Enjoining and restraining Defendants from:
 - a. Using the Marks to identify, advertise or promote the Defendants' business, goods or services, domain name, or address;
 - b. Disseminating, using or distributing any website pages, advertising or Internet code words or titles, or any other promotional materials whose appearance so resembles the Marks as to create a likelihood of confusion, mistake or deception;
 - c. Otherwise engaging in any other acts or conduct which would cause consumers to erroneously believe that Defendants' goods or services are somehow sponsored by, authorized by, licensed by, or in any other way associated with Educate 360;
- (3) Mandating that Defendants delete all software and electronic forms and packaging, labels, sales material, press releases, promotional material, advertising material, and stationary that employ any of the Marks in any substantial part;
- (4) Mandating that Defendants deliver up to Educate 360 to be held for destruction at the conclusion of this action any and all hard copies of packaging, labels, sales material, press releases, promotional material, advertising material, stationary, plates, and other materials that employ any of the Marks in any substantial part;
- (5) Mandating that Defendants immediately shut down the domain name www.pmacademyusa.com and refrain from doing business at any URL that employs any of the Marks in any substantial part;
- (6) Mandating that Defendants give written notice to Name.com, Inc. and any other domain name registrar with whom they do business that they forfeit any registrations,

claims or other interests any domain name or address that employs any of the Marks in any substantial part;

- (7) Ordering that, if and/or when the domain name registrar for “www.pmacademyusa.com” delegates jurisdiction of the domain name “www.pmacademyusa.com” to this Court, the domain name be cancelled;
- (8) Mandating that Defendants notify their customers, subscribers and correspondents who have done business or communicated with them, during the period that they have used the terms “Project Management Academy” or “PMA”, of their name change or that they no longer do business under this name;
- (9) Mandating that Defendants file with the Court a report in writing under oath setting forth in detail the manner and form in which Defendants have complied with the Court’s judgment;
- (10) For an award of damages;
- (11) For a full and complete accounting of Defendants’ sales from associating their business activities with the Marks, and that a constructive trust be imposed over those proceeds and that those proceeds be paid over to Educate 360 as unjust enrichment damages;
- (12) Defendants be required to pay statutory damages in an amount to be determined for their use of a counterfeit of Educate 360’s trademark registrations under 15 U.S.C. § 1117(c);
- (13) Defendants be required to account for and pay over to Educate 360 all profits realized by Defendants by reason of their unlawful acts, and that such amounts be trebled, as provided by law;
- (14) For an award of punitive damages;

- (15) For an award of attorney's fees and costs; and
- (16) Educate 360 have such other and further relief as the Court may deem appropriate to prevent the public from deriving the erroneous impression that any goods or services provided by or promoted by Defendants are authorized by Educate 360 or related in any way to Educate 360, its products or services.

JURY DEMAND

Plaintiff requests trial by jury on all issues so triable.

Respectfully Submitted,

/s/ William P. Kealey

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